

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

VIRNETX, INC.

v.

CISCO SYSTEMS, INC., et al.

§
§
§
§
§

Case No. 6:10-CV-417-LED

ORDER REGARDING DISCOVERY HOTLINE HEARING

Date: March 13, 2012

Participants: Jason Cassady for VirnetX, Inc.
Terry Morgan for Apple Inc.

Action on: Instruction to a deponent not to answer a question regarding compensation from his employer.

The Court held a discovery hotline hearing requested under Local Rule CV-26(e) by plaintiff VirnetX. During the deposition of an Apple software engineer, VirnetX inquired into the stock option compensation the engineer received from Apple. Apple's lawyers, who also represent the deponent, instructed the deponent not to answer. VirnetX argued that the question is proper and that discovery should be permitted because it is relevant to showing bias. Apple argued that the deponent's compensation should not be revealed because he is a fairly low level employee whose testimony is not particularly relevant to the litigation, and that he has no control over the litigation.

The Court ordered that witness answer the question because there is at least a colorable argument that the deponent's stock option compensation is relevant to bias and the protective order entered in the case adequately protects the deponent's privacy.

SIGNED this 2nd day of April, 2012.


ROY S. PAYNE
UNITED STATES MAGISTRATE JUDGE